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2-4-99

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY
DOCKET NO. L-980-97

GAF CORPORATION,

Plaintiff,

v.

HARTFORD ACCIDENT &
INDEMNITY COMPANY *et al.*,

Defendants.

Civil Action

**CASE MANAGEMENT ORDER
NUMBER 3**

THIS MATTER coming on for a Case Management Conference on December 17, 1998
before the Honorable Robert E. Guterl, in the presence of all counsel of record; and good cause
appearing;

IT IS on this 3rd day of February, 1999,

ORDERED that the parties shall comply with the following case management
provisions:

G-I_EPA0007355

I. DISCOVERY

A. Privilege Log Disputes

1. Upon consent of all parties, the Court appoints former New Jersey Superior Court Judge C. Judson Hamlin to review, *in camera*, documents which one or more parties assert have been wrongfully withheld from production by a party on privilege grounds.

2. Within twenty (20) days of the date of this Order, the parties shall submit to the Court a Consent Order of Reference or, if the parties cannot agree, proposed forms of an Order of Reference, setting forth in detail Judge Hamlin's responsibilities.

B. Discovery Motions

1. GAF's motions. On or before January 21, 1999, GAF Corporation ("GAF") may move to compel production of "declaratory judgment" files from defendant Commercial Union Insurance Company of New York ("Commercial Union"). Commercial Union's opposition is due on February 8, 1999 and GAF's reply is due on February 11, 1999.

2. Defendants' motions. On or before January 21, 1999, one or more defendants may move: (a) for a Protective Order allowing defendants to withhold from production documents obtained by Defendants from third parties; (b) to compel production of draft consultant reports from GAF; and (c) to compel production of those categories of documents responsive to defendants' First and Second Joint Set of Document Requests that GAF has not agreed to produce. GAF's oppositions to these motions are due on February 2, 1999, and defendants' replies are due on February 11, 1999.

3. Motion to compel more specific interrogatory responses. If, after meeting and conferring, the parties cannot resolve disputes regarding the adequacy of interrogatory responses, then the parties may move to compel more specific responses to interrogatories.

C. Document production

1. On or before January 29, 1999, GAF shall produce to defendants the documents in its possession described on pages three (3) and four (4) of GAF's December 7, 1998 status letter to the Court. GAF produces those documents subject to its objections set forth in its Responses to defendants' discovery requests.

D. Deposition schedule

1. Defendant Hartford Accident & Indemnity Company ("Hartford") shall use its best efforts to produce or arrange for the appearance for deposition of the witnesses listed on Schedule A to this Order in accordance with the schedule set forth therein. Hartford may adjourn any deposition set forth on Schedule A for a period not to exceed one (1) week or substitute one witness for another upon a minimum of two (2) weeks notice to GAF. Otherwise, depositions may be rescheduled only with the consent of GAF or by Order of the Court upon good cause shown. In any event, all depositions set forth on Schedule A shall be completed no later than April 22, 1999.

2. GAF and defendants shall cooperate in good faith and use their best efforts to schedule and complete the depositions set forth on Schedule B to this Order before April 16, 1999. Any disputes regarding the scheduling of such depositions shall be brought to the Court's attention through letters outlining the dispute with a request for a telephonic conference.

II. Dispositive motions

A. GAF's partial summary judgment motion against Hartford

1. GAF's partial summary judgment motion against Hartford on the liability limit issue will be heard on April ³⁰~~23~~, 1999 *(per Court)*

2. Hartford shall file its opposition papers and any cross-motion on March 26, 1999.

3. GAF shall file its reply and any opposition papers on April 12, 1999.

III. Linden and Novacor site inspections

A. Linden

1. GAF shall grant defendants access to the Linden site on mutually acceptable dates.

2. Before inspecting the Linden site, defendants and defendants' representatives shall execute reasonable and appropriate liability disclaimer and release agreements to be agreed upon by the parties. If the parties cannot reach an agreement regarding the language of the disclaimer and release agreements, then any party may seek the Court's intervention.

3. Defendants shall be entitled to two (2) site inspections of the Linden site, with each inspection lasting no longer than one (1) day. Defendants shall not be entitled to more than two (2) site inspections without leave of the Court.

4. Each inspection shall be attended by no more than fifteen (15) individuals representing defendants.

B. Novacor

With fifteen (15) days of the date of this Order, GAF shall provide to defendants a letter advising of GAF's attempt to secure from Novacor's current owners permission for defendants to inspect the Novacor site. The letter shall be from the GAF employee who contacted Novacor to seek such permission and shall identify the Novacor employee(s) who GAF contacted.

IV. Case Management Conference

The Court shall hold a Case Management Conference on April 16, 1999 at 3:00 p.m. to determine the status of proceedings under this Order. Plaintiff, on the one hand, and defendants jointly, on the other hand, shall submit to the Court separate "status letters" at least three (3) days prior to the Conference.

V. Prior Case Management Orders

Except as amended by this Order, all provisions of Case Management Orders Numbers 1 and 2 remain in effect.

IT IS FURTHER ORDERED that this Order may be amended or supplemented by: (a) the Court, upon motion of any party; and (b) agreement of all parties, subject to Court approval.

IT IS FURTHER ORDERED that a copy of this Order be served on all counsel within seven (7) days of the date hereof.


ROBERT E. GUTERL, J.S.C.

SCHEDULE A

| WITNESS NAME | AFFILIATION | PROPOSED DEPOSITION DATE |
|---|-------------|--------------------------|
| Alan Platteis | Hartford | February 2, 1999 |
| Don Kern | Hartford | February 8-9, 1999 |
| James Taylor | Hartford | February 19, 1999 |
| Bob Weir | Hartford | February 26, 1999 |
| Rule 4:14-2(c) claims-handler/ Jeffrey Wegner | Hartford | March 2-3, 1999 |
| Richard Hudec | Hartford | March 12, 1999 |
| Bruce Angelbeck | Hartford | March 16-17, 1999 |
| Ken Zwart | Hartford | March 23, 1999 |
| Robert Eagen | Hartford | March 30, 1999 |
| Ross Robert (Fla.) | Hartford | April 6, 1999 |
| George Berkey (Fla.) | Hartford | April 7, 1999 |
| Don Thompson | Hartford | April 13, 1999 |
| James Dillon | Hartford | April 15, 1999 |
| Sidney Bush | Hartford | April 20, 1999 |

SCHEDULE B¹

| WITNESS NAME | AFFILIATION |
|---|----------------------|
| Rule 4:14-2(c) underwriter | Lloyd's |
| Rule 4:14-2(c) RES Department | Century |
| Rule 4:14-2(c) claims-handler | Aetna |
| Rule 4:14-2(c) underwriter | Aetna |
| Rule 4:14-2(c) claims-handler | North River |
| Rule 4:14-2(c) underwriter | North River |
| Rule 4:14-2(c) claims-handler | Sun |
| Rule 4:14-2(c) claims-handler | Continental Casualty |
| Rule 4:14-2(c) general claims-handling practices and procedures | Northbrook |
| Imogene Knight | Northbrook |
| Robert McDaniel | Northbrook |
| Owen O'Neil | Commercial Union |
| Dave Freeman | Northbrook |
| Doug Sanders | Northbrook |
| James Weber | Northbrook |
| Rule 4:14-2(c) underwriter | Continental Casualty |
| Eldrid Welsh | GAF |
| Ray Gerow | GAF |
| Harold Leary | GAF |
| Curt Elsner | GAF |
| Jay Williams | GAF |
| Dr. Perry | GAF |
| Gene Stone | GAF |
| Eddie Jacks | GAF |
| Robert Hartman | GAF |
| J. W. Parks | GAF |
| John H. Shown | GAF |
| Charles Stein | GAF |
| Michael Slivinski | GAF |
| John Owsianick (Osianick?) | GAF |
| Frank Inzerillo | GAF |
| Jim Hulm | GAF |
| Charles Bien | GAF |

¹ The parties reserve their rights to object to any depositions set forth on schedule B, in which case the parties may seek the Court's intervention.

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| John Coffey | GAF |
| Celeste Wills | GAF |
| Completion of Rule 4:14-2(c) re Novacor | GAF |
| Rule 4:14-2(c) of Eckenfelder re Document Production | GAF |
| Rule 4:14-2(c) of GAF re Document Production | GAF |
| Rule 4:14-2(c) Sayreville, Colesville and Novak | GAF |
| Rule 4:14-2(c) remediation/costs at Novacor (Phil Coop) | GAF |
| Rule 4:14-2(c) remediation/costs at Sayreville, SCP-Carlstadt, Lone Pine, Novak and Colesville | GAF |